

## **Remarks**

Claims 7 and 29 have been amended to recite “receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings, the IP data”. Support for these amendments can be found, for example, at page 4, lines 16 and 17, page 8, lines 1-3, and, page 9, lines 3-5 of the Specification. Support for new claims 41 and 42 can be found, for example, at page 14, lines 1-6 of the Specification.

No new matter has been introduced by these amendments.

### **I. Rejection of Claims 7-9 and 11-13 Under 35 U.S.C. §103(a) as Being Obvious Over U.S. Patent Number 6,536,041 to Knudson in View of U.S. Patent Number 6,421,358 to Stimmel and Further in View of U.S. Published Application Number 2004/0205698 to Schliesmann**

Claims 7-9 and 11-13 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent Number 6,536,041 to Knudson (“Knudson”) in view of U.S. Patent Number 6,421,358 to Stimmel (“Stimmel”) and further in view of U.S. Published Application Number 2004/0205698 to Schliesmann.

#### Independent Claim 7

Claim 7 is directed to a method for presenting enhanced broadcast television programming. As amended herein, claim 7 recites, *inter alia*:

receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings, the IP data including an event identifier associating the IP data with one of the plurality of television listings, wherein the IP data corresponds to broadcast television programming currently available to a viewer, wherein the

enhanced IP data is an event-based Extensible Markup Language representation.

Knudson, Stimmel and Schliesmann, individually and/or in combination, do not teach, suggest or make obvious these features.

Applicant agrees that the combination of Knudson and Stimmel do not disclose receiving enhanced Internet protocol (IP) data that is not provided in a program band of broadcast television programming, wherein the IP data corresponds to broadcast television programming currently available to a viewer. (*See*, Final Office Action at page 8). Regarding this feature, the Final Office Action relies upon Marler.

Schliesmann is relied upon in the Final Office Action as disclosing event messages that define an event occurring within a program. (Final Office Action at page 4). Applicant respectfully submits that Knudson, Stimmel and Schliesmann, individually and/or in combination, do not disclose receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings. Marler discloses identifying ancillary information associated with an audio/video program. (Marler, Abstract).

Applicant respectfully submits that combination of Marler with Knudson would change the principle of operation of Knudson, and, would therefore improper. (*See*, MPEP § 2145 (III)). With respect to a proposed modification of a reference, MPEP 2143.01(VI) provides:

**VI. THE PROPOSED MODIFICATION CANNOT  
CHANGE THE PRINCIPLE OF OPERATION OF A  
REFERENCE**

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If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Applicant respectfully notes that the principle operation of Knudson is a program guide system is provided in which an interactive television program guide that is implemented at least partially on user television equipment receives program listings data and real-time data such as sports scores, news data, and the like. (Knudson, Abstract). Updated program listings information may be provided to the program guide as part of the data stream in which the real-time data is provided. (Knudson, Abstract). Thus, Knudson discloses a data stream comprising the program guide the real-time data.

Modification of the disclosure of Knudson to receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings would change the basic principle under which Knudson was designed to operate. Accordingly, modification of Knudson with Marler would be improper and fail to support a *prima facie* case of obviousness.

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Since claim 7 recites features not taught, suggested or made obvious by the references of record, claim 7 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 8, 9, 11-13 and 41 also patentably distinguish over the references of record and are in condition for allowance.

**II. Rejection of Claims 16 and 17 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in View of Stimmel and Further in View of U.S. Patent Number 7,559,073 to Marler and Further in View of Schliesmann**

Claims 16 and 17 were rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Stimmel and further in view of U.S. Patent 7,559,073 to Marler (“Marler”) and further in view of Schliesmann.

Independent claim 16

Claim 16 is directed to a client system for receiving a broadcast television navigation service. Claim 16 recites, *inter alia*, means for receiving Internet protocol (IP) data that is not provided in a program band of the broadcast television programming, wherein the IP data corresponds to broadcast television programming currently available to a viewer, wherein the IP data is an event-based Extensible Markup Language representation. Knudson, Stimmel, Marler and/or Schliesmann, individually and/or in combination, do not teach, suggest or make obvious these features.

Applicant agrees that Knudson and Stimmel does not disclose receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings. Applicant respectfully submits that the proposed combination of Marler with Knudson would change the principle of operation of Knudson, and, is therefore improper. (*See*, MPEP § 2145 (III)).

As discussed above with respect to claim 7, Knudson discloses a data stream comprising the program guide the real-time data. Modification of the disclosure of Knudson to receive Internet protocol (IP) data that is not provided in a program band of the broadcast television programming would change the basic principle under which Knudson was designed to operate. Accordingly, modification of Knudson with Marler would be improper and fail to support a *prima facie* case of obviousness.

Since claim 16 recite features not taught, suggested or made obvious by the references of record, claim 16 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 17 and 18 also patentably distinguish over the references of record and are in condition for allowance.

**III. Rejection of Claim 18 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in View of Stimmel, Marler and Schliesmann and Further in View of U.S. Published Application Number 2008/0282294 to Carpenter**

Claim 18 was rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Stimmel, Marler and Schliesmann and further in view of U.S. Published Application Number 2008/0282294 to Carpenter (“Carpenter”). Applicant respectfully submits that Carpenter does not cure the deficiencies discussed with respect to independent claim 16 above. Further, claim 18 is a dependent claim and allowable based on dependency from allowable independent claim 16 as described above. Accordingly, Applicant respectfully requests that the rejection of claim 18 be withdrawn.

**IV. Rejection of Claim 29 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in View of Stimmel and Further in View of U.S. Patent Number 6,839,901 to De Saint Marc and Further in View of Schliesmann**

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Claim 29 was rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Stimmel and further in view of U.S. Patent Number 6,839,901 to De Saint Marc (“De Saint Marc”) and further in view of Schliesmann.

Independent claim 29

Claim 29 is directed to a method for delivering enhanced broadcast television programming data. As amended herein, claim 29 recites, *inter alia*, receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings, the IP data. Knudson, Stimmel, De Saint Marc and/or Schliesmann, individually and/or in combination, do not teach, suggest or make obvious these features.

As discuss above with respect to claim 7, Knudson, Stimmel and Schliesmann, individually and/or in combination, do not disclose receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings. Applicant respectfully submits that combination of Marler with Knudson would change the principle of operation of Knudson, and, would therefore improper. (*See*, MPEP § 2145 (III)).

Applicant respectfully notes that the principle operation of Knudson is a program guide system is provided in which an interactive television program guide that is implemented at least partially on user television equipment receives program listings data and real-time data such as sports scores, news data, and the like. (Knudson, Abstract). Updated program listings information may be provided to the program guide as part of the data stream in which the real-time data is provided. (Knudson, Abstract). Thus, Knudson discloses a data stream comprising the program guide the real-time data.

Modification of the disclosure of Knudson to receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings would change the basic principle under which Knudson was designed to operate. Accordingly, modification of Knudson with Marler would be improper and fail to support a *prima facie* case of obviousness.

De Saint Marc is relied upon in the Final Office Action as disclosing a visual cue that comprises a real-time event alert informing the user of an action that is about to occur in one or more currently available broadcast television programs. (Final Office Action at page 11). Applicant respectfully submits that De Saint Marc does not teach, suggest or make obvious receiving enhanced Internet protocol (IP) data that is not provided in a same communications channel as the schedule for the plurality of broadcast television listings, as recited in claim 29, as amended herein.

Since claim 29 recite features not taught, suggested or made obvious by the references of record, claim 29 patentably distinguishes over the references of record and is in condition for allowance.

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### **Conclusion**

For the reasons set forth above, claims 7-9, 11-13, 16-18, 29, 41 and 42 patentably and unobviously distinguish over the reference and are allowable. An early allowance of all claims is earnestly solicited.

Respectfully submitted,

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